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| 09/854,778 | 05/14/2001 | Edward O. Clapper | INTL-0564-US (P11332) | 8166 |
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| TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024 | | | ELAHEE, MD S | |
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| | | | 2645 | |

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,778

Applicant(s)

CLAPPER, EDWARD O.

Examiner

Md S. Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-15 and 17-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-15 and 17-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Reopening of Prosecution-New ground of Rejection After Appeal

1. In view of the appeal Brief filed on 11/18/05, PROSECUTION IS HEREBY REOPENED. The rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 1-3,5,11-12,14,21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by **Hutcheson et al.** (US 6,874,029).

As to Claims 1,11, **Hutcheson** teaches a method comprising:

wirelessly linking a plurality of mobile unit users [i.e., customers] within a store, gas station or shopping mall [i.e., retail facility] through a local area network based in the store, gas station or shopping mall [i.e., retail facility] (fig.1,2; col.10, lines 28-30, 42, 43, col.21, lines 13-33); and

enabling customers to communicate with one another via text messages over said network (col.11, lines 24-29, col.21, lines 13-33).

As to Claims 2,12, **Hutcheson** teaches the method of claim 1 wherein wirelessly linking includes providing wireless access to a server by a plurality of customers within a retail facility (fig. 2).

As to Claim 3, **Hutcheson** teaches the method of claim 1 including providing a processor-based device to retail customers that wirelessly communicates with said server (fig. 2).

As to Claims 5,14, **Hutcheson** teaches the method of claim 1 including receiving audible communications from said customers (col.11, lines 24-29).

As to Claims 21-24, with respect to Figures 1-3, **Hutcheson** teaches a system comprising:

a control means [i.e., processor] (fig.2, item 600); and

a database [i.e., storage],410, coupled to said processor to wirelessly link a plurality of customers within a store, gas station or shopping mall [i.e., retail facility] through a local area network based in the store, gas station or shopping mall [i.e., retail facility] and enable customers to communicate with one another via text messages through said network (fig.1,2; col.10, lines 28-30, 42, 43, col.11, lines 24-29, col.14, lines 13-49, col.21, lines 13-33).

4. Claims 26,28-35,37,38,40,41 are rejected under 35 U.S.C. 102(e) as being anticipated by **Delph** (US 6,286,029).

As to Claims 26,29, **Delph** teaches a method comprising:

establishing an intranet [i.e., local area network] in a retail facility (fig.2; col.4, lines 63-65, col.6, lines 31-67, col.7, lines 25-34); and

providing retail customers with a terminal to communicate with said network, said terminal being activated by swiping a credit card through a slot in said terminal (fig.2; col.4, lines 47-65, col.6, lines 31-67, col.7, lines 1-34).

As to Claims 28,31, **Delph** teaches the method of claim 26 including providing a server to control said network and enabling information to be pushed to customer terminals depending on the current location within the retail facility of the customer (fig.2; col.3, lines 55-65, col.4, lines 47-65, col.6, lines 31-67, col.7, lines 1-34).

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As to Claims 30,33, **Delph** teaches the article of claim 29 further storing instructions that, if executed, enable customers in a retail facility to exchange text messages through said network (fig.2; col.1, lines 64-67, col.4, lines 47-65, col.6, lines 31-67, col.7, lines 1-34).

As to Claim 32, **Delph** teaches a system comprising:

a processor (col. 6, lines 45,46); and

a storage coupled to said processor, said storage storing instructions to activate said terminal in response to swiping a credit card through a slot in said terminal and to communicate through an intranet [i.e., local area network] in a retail facility (fig.2; col.4, lines 47-65, col.6, lines 31-67, col.7, lines 1-34).

As to Claim 34, **Delph** teaches the system of claim 32, said storage storing instructions to enable said terminal to receive information pertinent to the current location of the terminal within the retail facility (fig.2; col.3, lines 55-65, col.4, lines 47-65, col.7, lines 1-34).

As to Claims 35,38, **Delph** teaches a method comprising:

establishing an intranet [i.e., local area network] in a retail facility (fig.2; col.4, lines 63-65, col.6, lines 31-67, col.7, lines 25-34); and

pushing information to a customer terminal coupled to said network depending on the current location of the terminals within said retail facility (fig.2; col.3, lines 55-65, col.4, lines 47-65, col.6, lines 31-67, col.7, lines 1-34).

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As to Claims 37,40, **Delph** teaches the method of claim 35 including enabling a terminal to access the network in response to swiping a credit card through a slot in said terminal (fig.2; col.4, lines 47-65).

As to Claim 41, **Delph** teaches a system comprising:

a processor (col. 6, lines 45,46); and

a storage coupled to said processor for storing instructions to establish a local area network in said facility between a plurality of customer terminals in said retail facility and push information to said customer terminals depending on the current location of the terminals within the retail facility (fig.2; col.3, lines 55-65, col.4, lines 47-65, col.6, lines 31-67, col.7, lines 1-34).

5. Claims 35,38,41 are rejected under 35 U.S.C. 102(e) as being anticipated by **Meyers et al.** (US 2002/0087335).

As to Claims 35,38, **Meyers** teaches a method comprising:

establishing an intranet [i.e., local area network] in a retail facility (fig.2,4,5; page 2, paragraph 0023, page 3 paragraphs 0024, 0025, page 4, paragraphs 0034, 0038, 0039); and

pushing information to a customer terminal coupled to said network depending on the current location of the terminals within said retail facility (page 1, paragraphs 0006-0009, page 4, paragraph 0037).

As to Claim 41, **Meyers** teaches a system comprising:

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a processor (page 1, paragraphs 0007, 0008); and

a storage coupled to said processor for storing instructions to establish a local area network in said facility between a plurality of customer terminals in said retail facility and push information to said customer terminals depending on the current location of the terminals within the retail facility (fig.2,4,5; page 1, paragraphs 0006-0009, page 2, paragraph 0023, page 3 paragraphs 0024, 0025, page 4, paragraphs 0034, 0037).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-3,5,7-12,14,15,17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Meyers et al.** (US 2002/0087335) in view of **Keinonen et al.** (US 6,959,207).

As to Claims 1,11, **Meyers** teaches a method comprising:

wirelessly linking a plurality of consumers within a retail facility through a local area network based in the retail facility (fig.2,4,5; page 2, paragraph 0023, page 3 paragraphs 0024, 0025, page 4, paragraphs 0034, 0038, 0039); and

enabling customers using personal digital assistant to communicate with server via text messages over said network (page 3, paragraph 0027, page 4, paragraphs 0036, 0037);

However, **Meyers** does not teach, “customers to communicate with one another via text messages”. **Keinonen** teaches customers to communicate with one another via text messages (fig.1; col.3, line 60- col.4, line 7, col.8, lines 28-37, 61-67, col.9, lines 1-3). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Meyers** to add mobile unit communications to **Meyers**’s invention for communication between users via text messages as taught by **Keinonen**’s invention in order to provide assistance to users and communicate between users.

As to Claims 2,12, **Meyers** teaches the method of claim 1 wherein wirelessly linking includes providing wireless access to a server by a plurality of customers within a retail facility (fig.2,4,5; page 2, paragraph 0023, page 3 paragraphs 0024, 0025, page 4, paragraph 0037).

As to Claim 3, **Meyers** teaches the method of claim 1 including providing a mobile device 18 [i.e., processor-based device] to retail customers that wirelessly communicates with said server (fig.2).

As to Claims 5,14, **Meyers** teaches the method of claim 1 including receiving audible communications from said customers (page 2, paragraph 0023).

As to Claims 7,15,17,20, **Meyers** teaches the method of claim 1 including pushing WAP page [i.e., electronic files] to customers (page 2, paragraph 0023).

As to Claim 8,18, **Meyers** teaches the method of claim 1 including providing information about the current location of a processor-based device associated with a customer (page 1, paragraphs 0006-0009, page 3, paragraph 0024).

As to Claims 9,19, **Meyers** teaches the method of claim 8 including providing information about the customer's location to the server (page 3, paragraph 0024).

As to Claim 10, **Meyers** teaches the method of claim 9 including pushing information to the customer depending on the customer's current location (page 1, paragraphs 0006-0009).

As to Claims 21-24, **Meyers** teaches a system comprising:

- a processor (page 1, paragraphs 0007, 0008); and

- a storage coupled to said processor to wirelessly link a plurality of customers within a retail facility through a local area network based in the retail facility and enable customers to communicate with server via text messages through said network (fig.2,4,5; page 1, paragraphs

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0007, 0008, page 2, paragraph 0023, page 3 paragraphs 0024, 0025, page 4, paragraphs 0034, 0038, 0039).

However, **Meyers** does not teach, “customers to communicate with one another via text messages”. **Keinonen** teaches customers to communicate with one another via text messages (fig.1; col.3, line 60- col.4, line 7, col.8, lines 28-37, 61-67, col.9, lines 1-3). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Meyers** to add mobile unit communications to **Meyers**’s invention for communication between users via text messages as taught by **Keinonen**’s invention in order to provide assistance to users and communicate between users.

9. Claims 4,13,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hutcheson et al.** in view of **Delph** (US 6,286,029).

As to Claims 4,13,25, **Hutcheson** does not teach, “said terminal being activated by swiping a credit card through a slot in said terminal”. **Delph** teaches terminal being activated by swiping a credit card through a slot in said terminal (col.4, lines 47-65). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Hutcheson** to add device slot capability to **Hutcheson**’s invention for exchanging information with a retail facility in order to provide shopping services using portable terminals.

10. Claims 4,13,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Meyers et al.** in view of **Keinonen et al.** further in view of **Delph** (US 6,286,029).

As to Claims 4,13,25, **Meyers** in view of **Keinonen** does not teach, "said terminal being activated by swiping a credit card through a slot in said terminal". **Delph** teaches terminal being activated by swiping a credit card through a slot in said terminal (col.4, lines 47-65). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Meyers** in view of **Keinonen** to add device slot capability to **Hutcheson's** invention for exchanging information with a retail facility in order to provide shopping services using portable terminals.

11. Claims 27,36,42 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Delph** in view of **Keinonen et al.** (US 6,959,207).

As to Claims 27,36,42, **Delph** teaches enabling customers in said retail facility having said terminals to exchange messages with server in the form of text messages (col.6, lines 31-49).

However, **Delph** does not teach customers to exchange messages with one another in the form of text messages. **Keinonen** teaches customers to exchange messages with one another in the form of text messages (fig.1; col.3, line 60- col.4, line 7, col.8, lines 28-37, 61-67, col.9, lines 1-3). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Delph** to add device communications to **Delph's** invention for communication between users via text messages as taught by **Keinonen's** invention in order to provide assistance to users and communicate between users.

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6. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Delph** in view of **Kraft et al.** (US 2002/0091568).

As to Claim 43, **Delph** teaches the system of Claim 41 including:

Delph does not teach the following limitation:

“a global positioning device coupled to said processor”

However, it is obvious that **Delph** suggests the limitation. This is because **Delph** teaches the identification of the location of shoppers (Col. 12, lines 52-53). **Kraft** teaches locating shoppers in malls using terminal devices having GPS (Figure 2, label 222, P0021, P0025 – lines 22-26). Since **Delph** and **Kraft** are in analogous art which identifies locations of consumers in shopping facilities, it would have been obvious to one of ordinary skill in the art to add GPS capability to **Delph**'s invention for locating shoppers within a retail facility as taught by **Kraft**'s invention in order to provide notification and help services to shoppers.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Burnstein et al. (US 2002/0032735) teach Apparatus, means and methods for automatic community formation for phones and computer networks.

Engstrom (US 2002/0169540) teach Method and system for inserting advertisements into broadcast content.

Shteyn (US 2002/0144007) teach Task management system.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. E.

MD SHAFIUL ALAM ELAHEE

February 21, 2006


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